

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:11-MJ-01078-RJ

UNITED STATES OF AMERICA

v.

JASON N. JOLLEY,

Defendant.

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ORDER

This matter is before the court on Defendant's Motion to Dismiss and for Release from Custody [DE-22] and the Government's Motion to Withdraw the Oral Motion for Detention [DE-27]. For the reasons stated below, Defendant's Motion to Dismiss and for Release from Custody will be denied, and the Government's Motion to Withdraw the Oral Motion for Detention will be granted.

On June 15, 2011, Defendant Jason N. Jolley was sentenced to a 24 month term of probation for Disorderly Conduct, 36 C.F.R. § 2.34(a)(2); Possession of Marijuana, 36 C.F.R. § 2.35(b)(2); and Public Intoxication, 36 C.F.R. § 2.35(c), all Class B misdemeanors punishable by a fine as provided by law, or by imprisonment not exceeding 6 months or both. 36 C.F.R. § 1.3; 18 U.S.C. 3581(7). On January 30, 2012, a federal warrant for arrest issued based on a Probation Revocation Petition. On June 13, 2012, Defendant was convicted in Lenoir County Superior Court of three (3) state offenses and was in state custody serving his sentence until his release on September 2, 2013.

Upon his release from state custody, Defendant was held on a federal detainer and arrested on the federal warrant. On September 9, 2013, Defendant had an initial appearance in the Western District of North Carolina before the Honorable Dennis L. Howell, United States

Magistrate Judge, at which the Government moved for detention and Judge Howell entered an order of Commitment to the Eastern District of North Carolina. Defendant was placed in the custody of the Marshal for transport to this district; however, Defendant has not yet arrived in the Eastern District and is currently awaiting transport to this district from the Irwin County Detention Center in Ocilla, Georgia.

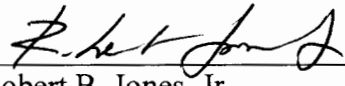
The Government initially sought detention of Defendant at his initial appearance, and Defendant subsequently sought to dismiss the proceedings against him based on a lack of jurisdiction due to the alleged unnecessary delay in transporting Defendant to this district. However, the parties have reached an agreement to resolve the dispute, whereby the Defendant agrees to denial of his motion to dismiss and the Government agrees to withdraw the motion for detention and does not oppose Defendants release on condition that the Marshal shall promptly release Defendant to his mother, Jean Hill and pending the revocation hearing the defendant shall reside at the residence of his mother at 435 Garris Chapel Road, LaGrange, NC 28551.

Having fully considered the matter, it is hereby ORDERED as follows:

1. The Government's Motion to Withdraw the Oral Motion for Detention is ALLOWED.
2. Defendant's Motion to Dismiss and for Release from Custody is DENIED.
3. The Marshal shall release Defendant to his mother, Jean Hill.
4. Pending the revocation hearing, Defendant shall reside at the residence of Ms. Hill at 435 Garris Chapel Road, LaGrange, NC 28551.
5. The Clerk shall immediately serve the Marshal with a copy of this Order.

6. A hearing on the Amended Motion for Revocation of Probation will be held on **Thursday, October 10, 2013 at 10:00 a.m.** in Courtroom 3 in the Alton Lennon Federal Building at Wilmington, North Carolina.

SO ORDERED this the 3rd day of October 2013.



Robert B. Jones, Jr.
United States Magistrate Judge